

**MINUTES OF A REGULAR MEETING OF
THE TORRANCE PLANNING COMMISSION**

1. CALL TO ORDER

The Torrance Planning Commission convened in a regular session at 7:05 p.m. on Wednesday, July 21, 2004, in City Council Chambers at Torrance City Hall.

2. SALUTE TO THE FLAG

The Pledge of Allegiance was led by Commissioner Horwich.

3. ROLL CALL

Present: Commissioners Faulk, Horwich, LaBouff, Uchima and Chairperson Muratsuchi.

Absent: Commissioners Botello and Drevno. (both excused)

Also Present: Planning Manager Isomoto, Planning Associate Crecy, Building Regulations Administrator Segovia, Fire Marshal Carter, Associate Civil Engineer Symons and Deputy City Attorney Whitham.

4. POSTING OF THE AGENDA

MOTION: Commissioner Uchima, seconded by Commissioner Horwich, moved to accept and file the report of the secretary on the posting of the agenda for this meeting; voice vote reflected unanimous approval.

5. APPROVAL OF MINUTES

None.

6. REQUESTS FOR POSTPONEMENTS

Planning Manager Isomoto relayed the applicant's request to continue Item 7A (PRE04-00001: Ralph Malafronte) to August 18, 2004 and Item 7B (PRE04-00014, WAV04-00011: Fonzy Kuo) indefinitely.

MOTION: Commissioner Faulk, seconded by Commissioner Horwich, moved to continue Item 7A to August 18, 2004; voice vote reflected unanimous approval (absent Commissioners Botello and Drevno).

Planning Manager Isomoto announced that the hearing on Item 7A would not be re-advertised because it was continued to a date certain.

MOTION: Commissioner Horwich, seconded by Commissioner Fauk, moved to continue Item 7B indefinitely; voice vote reflected unanimous approval (absent Commissioners Botello and Drevno).

Planning Manager Isomoto announced that the hearing on Item 7B would be re-advertised.

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Chairperson Muratsuchi reviewed the policies and procedures of the Planning Commission, including the right to appeal decisions to the City Council.

7. CONTINUED HEARINGS

7A. PRE04-00001: RALPH MALAFRONTA (MANUAL GEORGE)

Planning Commission consideration for approval of a Precise Plan of Development to allow the construction of a new two-story, single-family residence on property located in the Hillside Overlay District in the R-1 Zone at 22508 Susana Avenue.

Continued to August 18, 2004.

7B. PRE04-00014, WAV04-00011: FONZY KUO (RICKY HSU)

Planning Commission consideration for approval of a Precise Plan of Development to allow the construction of a third-story addition and a Waiver of the maximum height requirement on property located in the Hillside Overlay District in the R-1 Zone at 3019 Windmill Road.

Continued indefinitely.

8. WAIVERS – None.

9. FORMAL HEARINGS

9A. CUP04-00020, DIV04-00013: PETER PALDINO

Planning Commission consideration for approval of a Conditional Use Permit to allow the construction of a two-unit condominium development and a Division of Lot for condominium purposes on property located in the R-2 Zone at 24428 Park Street.

Recommendation

Approval.

Planning Associate Crecy introduced the request and noted supplemental material available at the meeting consisting of correspondence from Mr. and Mrs. Mark Lum, 24427 Park Street.

Peter Paldino, applicant, voiced his agreement with the recommended conditions of approval.

MOTION: Commissioner Horwich, seconded by Commissioner Uchima, moved to close the public hearing; voice vote reflected unanimous approval.

MOTION: Commissioner Uchima moved for the approval of CUP04-00020 and DIV04-00013, as conditioned, including all findings of fact set forth by staff. The motion was seconded by Commissioner LaBouff and passed by unanimous roll call vote (absent Commissioners Botello and Drevno).

Referring to the letter from Mr. and Mrs. Lum, which expresses concerns about the loss of street parking, Commissioner Faulk stated that he looked at this issue and did not believe the project would have an adverse impact on parking.

Planning Manager Isomoto noted that while one street parking space would be eliminated for the new driveway, the project exceeds parking requirements by providing 2 two-car garages, 2 driveway spaces in front, and an additional guest space in the rear.

Planning Associate Crecy read aloud the number and title of Planning Commission Resolution Nos. 04-087 and 04-088.

MOTION: Commissioner Uchima moved for the adoption of Planning Commission Resolution Nos. 04-087 and 04-088. The motion was seconded by Commissioner Horwich and passed by unanimous roll call vote (absent Commissioners Botello and Drevno).

9B. CUP04-00022, DIV04-00015: CALIFORNIA CUSTOM HOMES (SUBTEC/ CHERYL VARGO)

Planning Commission consideration for approval of a Conditional Use Permit to allow the construction of a two-unit condominium development and a Division of Lot for condominium purposes on property located in the R-2 Zone at 2423 Border Avenue.

Recommendation

Approval.

Cheryl Vargo, representing the applicant, voiced her agreement with the recommended conditions of approval.

Commissioner Faulk asked about plans for walls/fencing around the property. Ms. Vargo reported that there are new developments on either side and related her understanding that property line walls were already in place or were in the process of being built.

Planning Manager Isomoto noted that there was no detail of the walls on the plans and recommended that a condition be included requiring a wall/fence plan to be submitted to the satisfaction of the Community Development Director.

Commissioner Faulk noted that he has long been a proponent of block walls versus wood fences because of maintenance/durability issues and commented the recent trend to allow combination decorative block and wood fences.

Planning Manager Isomoto advised that staff would reinforce the Commission's preference for block walls and noted that staff has approved the use of vinyl fencing between units in some projects because it provides a more open look and its track record on maintenance and durability has been very good.

MOTION: Commissioner Horwich, seconded by Commissioner Uchima, moved to close the public hearing; voice vote reflected unanimous approval.

MOTION: Commissioner Uchima moved for the approval of CUP04-00022, DIV04-00015, as conditioned, including all findings of fact set forth by staff, with the following modification:

Add

- That a wall/fence plan shall be submitted to the satisfaction of the Community Development Director.

The motion was seconded by Commissioner Horwich and passed by unanimous roll call vote (absent Commissioners Botello and Drevno).

Planning Associate Crecy read aloud the number and title of Planning Commission Resolution Nos. 04-089 and 04-090.

MOTION: Commissioner Uchima moved for the adoption of Planning Commission Resolution Nos. 04-089 and 04-090 as amended. The motion was seconded by Commissioner LaBouff and passed by unanimous roll call vote (absent Commissioners Botello and Drevno).

9C. PRE04-00010, WAV04-00009: SEAN BEARDSLEY (CHESTER SMITH & ASSOCIATES/ JEFF SMITH

Planning Commission consideration for approval of a Precise Plan of Development to allow the construction of a one-story addition to an existing single-family residence and a Waiver to allow a reduction of the side yard setback requirement on property located in the Hillside Overlay District in the R-1 Zone at 2654 Brian Avenue.

Recommendation

Approval.

Planning Associate Crecy introduced the request.

Jeff Smith, Chester Smith & Associates, project architect, briefly described the proposed project and voiced his agreement with the recommended conditions of approval.

MOTION: Commissioner Horwich, seconded by Commissioner Uchima, moved to close the public hearing; voice vote reflected unanimous approval.

MOTION: Commissioner Horwich moved for the approval of PRE04-00010, WAV04-00009, as conditioned, including all findings of fact set forth by staff. The motion was seconded by Commissioner Uchima and passed by unanimous roll call vote (absent Commissioners Botello and Drevno).

Planning Associate Crecy read aloud the number and title of Planning Commission Resolution Nos. 04-091 and 04-092.

MOTION: Commissioner Horwich moved for the adoption of Planning Commission Resolution Nos. 04-091 and 04-092. The motion was seconded by Commissioner Faulk and passed by unanimous roll call vote (absent Commissioners Botello and Drevno).

9D. VAL04-00001: JOSEPH BARNETT

Planning Commission consideration for approval of a Validation Permit to retain two unpermitted bachelor units within an existing apartment complex on property located in the R-3 Zone at 22515 Ocean Avenue.

Recommendation

Denial.

Planning Associate Crecy introduced the request.

Joseph Barnett, applicant, stated that as a result of a complaint from a tenant whom he evicted, City building inspectors discovered that the Validation Permit granted in 1982 for two unpermitted bachelor units had expired. He requested that he be allowed to retain these units, explaining that he bought the building in 1970 as it is currently configured and there was no indication that the units were unpermitted. He stated that the units have provided affordable housing for many years; that many of the tenants have been seniors; and that a 20-year employee of the City of Torrance has lived in one of the units for the past 15 years.

Commissioner Uchima questioned whether there is on-site parking for all of the units. Mr. Barnett indicated that everyone who lives in complex either has no vehicle or parks in the underground garage. He noted that many tenants are seniors who do not need a vehicle because the location is within walking distance to shopping.

Referring to Mr. Barnett's letter dated June 5, 2004, Commissioner Horwich questioned why he has left Units 2 and B vacant for over a year and a half. Mr. Barnett explained that he was reluctant to apply for a Validation Permit because he feared it would be denied and he would be forced to evict two longtime tenants currently living in Units 1 and A, and he did not rent Units 2 and B because he did not want to have to evict two additional tenants. He reported that when he failed to apply for the Validation Permit, the Building Department filed a criminal case, which has been continued until the matter of the Validation Permit has been resolved.

In response to Commissioner Uchima's inquiry, Building Regulations Administrator Segovia advised that Building and Safety code enforcement staff attempted to work with the property owner for a year and a half to try to bring the

property into compliance with the original land use approvals and when that did not take place, the matter was forwarded to the City prosecutor.

Deputy City Attorney Whitham explained that apparently the judge in the criminal case continued the matter pending the Planning Commission's action because the charges will probably be dismissed if the Validation Permit is approved.

Mr. Barnett reported that the Validation Permit granted in 1982 was for a period of 6 years and the City never notified him when it expired nor did he remember.

In response to Commissioner Faulk's inquiry, Deputy City Attorney Whitham confirmed that all four criteria listed in the staff report must be met in order to approve the Validation Permit.

Mr. Barnett noted that he had provided facts which he believes satisfies the criteria (per agenda material).

Referring to the four criteria, Commissioner Horwich stated that he was not sure criterion (d) – To remedy the illegality would cost an amount of money disproportionate to the public benefit which would result therefrom – was satisfied because it appears that it would take very little expense to correct the situation.

Mr. Barnett maintained that no public benefit would result from converting the apartments.

Commissioner Faulk pointed out that since there are currently only two tenants living in the subject units, bringing them into compliance by converting the four units into two larger units would not require the applicant to evict anyone.

Mr. Barnett reported that the tenant who is a City employee does not want a larger apartment and he would hate to lose him because he is also the manager.

Joyce Bromberg, 22515 Ocean Avenue, #4, stated that she has lived in Mr. Barnett's apartments for the past 18 years; that he has never raised the rent; and that he has been very helpful to tenants, even allowing them to stay when they could not pay the rent. She further stated that the bachelor units have always been very popular and provide a place for people who otherwise could not afford to live in Torrance. She reported that every tenant has a vehicle and there are still empty spaces in the parking garage. She indicated that she strongly supports leaving the units as they are.

Commissioner Uchima asked about the possibility of approving the Validation Permit adding a condition that the bachelor units shall be reserved for senior or low-income housing.

Deputy City Attorney Whitham expressed concerns about whether a nexus could be made linking the Validation Permit to senior/affordable housing. But after reviewing the criteria, she advised that since the Commission must make a finding that the cost to remedy the illegality would be disproportionate to the public benefit, she believed such a condition could be imposed, if the applicant would agree, because providing senior/affordable housing could be a factor in justifying this finding.

Noting that he was formerly a city prosecutor in another city, Chairperson Muratsuchi stated that it was his experience that this type of case was prosecuted only after other remedies have been exhausted. He suggested that this appears to be a case where there has been an egregious flouting of city laws especially in view of the applicant's experience in city government. He pointed out that the applicant was given six years to bring the units into compliance, but neglected to do so. He asked if there was additional information about the criminal case that the Commission had not been made aware of.

Deputy City Attorney Whitham indicated that she was not privy to the details of the criminal prosecution. Building Regulations Administrator Segovia stated that he also did not have all the details but believed the matter was forwarded to the prosecutor because of the applicant's lack of response to requests that he bring the units into compliance.

Commissioner Horwich noted that one of the conditions of the 1982 approval was that the applicant obtain the appropriate building permits and that was never done.

Mr. Barnett stated that he did not understand why he needed to obtain building permits because he had not done any building. He conceded that he had been dragging his feet because he did not want to lose his manager. He expressed his willingness to restrict the two bachelor units to senior or low-income housing, but noted that the current tenant does not qualify as a senior even though he has worked for the City of Torrance for 20 years.

Commissioner Uchima stated that he thought the restriction would apply to future tenants. Planning Manager Isomoto suggested that the condition state that the units shall be restricted to low-income residents, seniors, or the manager of the apartments.

Commissioner LaBouff indicated that he has owned several apartments over the past 20-25 years and found it hard to believe that Mr. Barnett did not know exactly what he was buying. He stated that Mr. Barnett's argument for approving the Validation Permit consists mainly of the claim that he is a Good Samaritan, however, he believed the fairest thing to do would be to deny the permit and let the judge decide whether there is any charity to be displayed.

Commissioner Uchima stated that he believed the applicant had satisfied the criteria for granting the Validation Permit, although he definitely favored adding a condition requiring that the necessary building permits be obtained due to potential safety issues with regard to electrical wiring and appliances.

Chairperson Muratsuchi asked about the possibility of allowing the Validation Permit to remain in effect only as long as the current manager resides there. Referring to the Planning Commission's action in 1982, Planning Manager Isomoto noted that legal staff recommended against tying the permit to existing tenants and proposed setting a time limit instead.

Commissioner Uchima voiced his opinion that designating the units as senior/low-income housing would be more beneficial to the public than removing them from the market and requested that staff assist in providing a definition of "seniors" and "low-income."

Planning Manager Isomoto advised that seniors are typically defined as those 55 years of age or older and that HUD has specific guidelines for qualifying income levels.

Commissioner Horwich suggested the possibility of converting the two unoccupied units (Units 2 and B) into one unit, thereby bringing them into compliance and granting a Validation Permit for the units that are currently occupied (Units 1 and A).

Mr. Barnett stated that he would like to retain the current configuration of all four of the units.

MOTION: Commissioner Faulk, seconded by Commissioner Uchima, moved to close the public hearing; voice vote reflected unanimous approval.

Commissioner Faulk indicated that he would support the Validation Permit with the addition of the two conditions mentioned by Commissioner Uchima because he was convinced that reserving the units for senior and low-income housing justifies the necessary findings.

Chairperson Muratsuchi stated that he could not justify a finding that the illegal construction did not result from a deliberate attempt to violate the laws of the City, which is one of the four criteria. He noted that while Mr. Barnett might not have been aware when he purchased the building that the units were illegal, he has ignored repeated warnings that the units must be brought into compliance starting when the Validation Permit was issued in 1982.

MOTION: Commissioner Uchima moved for the approval of VAL04-00001, as conditioned, including all findings of fact set forth by staff, with the following modifications:

Add

- That the applicant shall obtain all necessary building permits.
- That the two (2) illegal units shall be occupied by the manager; by seniors 55 years of age or older; or rented as affordable housing per HUD guidelines.

The motion failed to pass as reflected in the following roll call vote:

AYES: Commissioners Faulk and Uchima.
NOES: Commissioners Horwich, LaBouff and Chairperson Muratsuchi.
ABSENT: Commissioners Botello and Drevno.

Commenting on his vote, Commissioner Horwich stated that he thought the units were appropriately characterized when referred to as "illegal" and he did not favor validating illegal units.

MOTION: Commissioner Horwich moved to deny VAL04-00001. The motion was seconded by Chairperson Muratsuchi and passed as reflected in the following roll call vote:

AYES: Commissioners Horwich, LaBouff and Chairperson Muratsuchi.
NOES: Commissioners Faulk and Uchima.
ABSENT: Commissioners Botello and Drevno.

Planning Associate Crecy read aloud the number and title of Planning Commission Resolution No. 04-093. The motion was seconded by Chairperson Muratsuchi and passed as reflected in the following roll call vote:

AYES: Commissioners Horwich, LaBouff and Chairperson Muratsuchi.
NOES: Commissioners Faulk and Uchima.
ABSENT: Commissioners Botello and Drevno.

10. **RESOLUTIONS** – None.

11. **PUBLIC WORKSHOP ITEMS** – None.

11A. **CITY ATTORNEY PRESENTATION ON BROWN ACT**

Deputy City Attorney Whitham presented an update on the Brown Act prior to the regular meeting at 6:15 p.m.

12. **MISCELLANEOUS ITEMS**

12A. **CUP04-00018: THE TORMED BUILDINGS (DAVID BUXTON)**

Request for reconsideration for approval of a Conditional Use permit to allow controlled access parking for an existing medical office complex on property located in the Hawthorne Boulevard Corridor Specific Plan, Hospital, Medical, Dental Sub-District at 3400 and 3440 Lomita Boulevard.

David Buxton, representing the Tormed Buildings, noted that at the Planning Commission meeting of July 7, 2004, a motion to approve CUP04-00018 failed to pass by a vote of 3 to 3, with one commissioner absent. He stated that since that time, he has obtained additional information and requested that the Commission reconsider the matter when all commissioners are present.

Planning Manager Isomoto clarified that typically a motion to reconsider has to be made by a commissioner on the prevailing side, but any commissioner could make a motion in this case because the vote was a tie. She explained that should the Commission choose to reconsider the matter, a public hearing would be scheduled for a future meeting and the matter would re-advertised.

MOTION: Commissioner Uchima moved to reconsider CUP04-00018. Discussion briefly continued.

Commissioner Faulk indicated that he did not favor reconsideration of this item, noting that there is no way to guarantee that all commissioners would be present at a future meeting.

Mr. Buxton expressed his willingness to go forward with the new hearing even without the full Commission present, explaining that he was primarily interested in presenting additional information.

Chairperson Muratsuchi asked Mr. Buxton to briefly summarize the additional information.

Deputy City Attorney Whitham advised that the new information would have to be presented at the public hearing

The motion died for lack of a second.

Chairperson Muratsuchi noted the applicant's right to appeal the matter to the City Council.

13. REVIEW OF CITY COUNCIL ACTION ON PLANNING MATTERS

Planning Manager Isomoto reviewed recent City Council action on Planning Matters, noting that the Council approved the two-unit condominium project on Newton Street; gave direction on how to proceed on the General Plan Update; approved the Commission's annual report; and rejected the revised Tattoo Ordinance, leaving the existing ordinance in place.

14. LIST OF TENTATIVE PLANNING COMMISSION CASES

Planning Manager Isomoto reviewed the agenda for the Planning Commission meeting of August 4, 2004.

15. ORAL COMMUNICATIONS

15A. In response to Commissioner Uchima's inquiry, Planning Manager Isomoto updated the Commission on the Mills Corporation project at Del Amo Fashion Center, the Shea Homes project near Del Amo financial center, and the proposed residential development near Costco.

15B. Commenting on his vote on Item 9D, Chairperson Muratsuchi expressed concerns that approving substandard-sized apartments just because they are affordable could lead to the erosion of City standards.

Commissioner Uchima stated that he evaluates each case on its own merits and he thought approval of the units was warranted in this case.

16. ADJOURNMENT

At 8:57 p.m., the meeting was adjourned to Wednesday, August 4, 2004.

Approved as Written September 15, 2004 s/ Sue Herbers, City Clerk
